

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE APPROVING AND ADOPTING A FOURTH AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE CENTRAL CORE REDEVELOPMENT PROJECT AREA**

WHEREAS, the City Council of the City of Sunnyvale has adopted the Central Core Redevelopment Plan by Ordinance No. 1796-75, adopted on December 26, 1975, as amended by Ordinance No. 2200-87, adopted on January 6, 1987, as amended by Ordinance No. 2448-93, adopted on October 5, 1993, and as further amended by Ordinance No. 2493-94, adopted on December 20, 1994 (the "Redevelopment Plan") establishing the Central Core Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Redevelopment Plan, as previously amended, currently contains a time limit of December 30, 1998 for commencement by the Redevelopment Agency of the City of Sunnyvale of eminent domain proceedings with respect to property within the Project Area; and

WHEREAS, pursuant to the Community Redevelopment Law of the State of California, Health and Safety Code Section 33000, *et seq.* (the "Redevelopment Law"), the time limit may be extended only by amendment of the Redevelopment Plan and an amendment has been prepared and recommended by the Agency to reinstate the Agency's deadline for commencement of eminent domain proceedings for non-residential property in the Project Area for twelve (12) years and to conform Redevelopment Plan land uses with the recently amended General Plan and Downtown Specific Plan; and

WHEREAS, the Agency also proposes to update the land uses in the Redevelopment Plan to incorporate recent land use changes in the City's recently amended General Plan and to provide on-going conformity with the City's General Plan; and

WHEREAS, the Agency has determined that the proposed amendment to the Redevelopment Plan will promote the proper redevelopment of the Project Area in accordance with the goals, objectives and policies of the General Plan, Redevelopment Plan and the Redevelopment Law; and

WHEREAS, pursuant to the Redevelopment Law, the Agency has made studies of the impact of the proposed plan amendment and has prepared and submitted to the City Council for review and adoption the proposed amendment which is incorporated in a fourth amendment to the Redevelopment Plan for the Sunnyvale Central Core Redevelopment Project entitled Fourth Amendment to the Central Core Redevelopment Plan" (the "Fourth Plan Amendment"). A copy of the Fourth Plan Amendment is on file with the City Clerk; and

WHEREAS, the Agency has prepared and submitted to the City Council for

review and adoption, and the City Council has reviewed and considered a written report on the Fourth Plan Amendment (the "Report on the Fourth Plan Amendment"), pursuant to Health and Safety Code Section 33457.1, a copy of which is on file with the City Clerk of the City of Sunnyvale; and

WHEREAS, the Planning Commission of the City of Sunnyvale, which is the duly designated and acting official planning body of the City, has submitted to the City Council its report and recommendation dated November 24, 2003, recommending approval and adoption of the Fourth Plan Amendment and certifying that the Fourth Plan Amendment conforms to the General Plan; and

WHEREAS, the City has previously prepared a Program Environmental Impact Report ("the Program EIR") pursuant to the California Environmental Quality Act ("CEQA") to consider and analyze the environmental impacts related to adoption of amendments to the Land Use and Transportation Element of the General Plan, the Downtown Specific Plan and the Zoning Code. The Program EIR was certified by the Council at its June 17, 2003 meeting (Resolution No. 123-03), where Council found that it presented an adequate and extensive assessment of the environmental impacts of the Project, and adopted a statement of overriding considerations related to certain impacts on traffic and air quality, and adopted a mitigation monitoring program. The Program EIR will serve as the required environmental documentation pursuant to CEQA for the Fourth Plan Amendment. Any action to be taken pursuant to the Fourth Plan Amendment will be subject to environmental review at such time as it is proposed; and

WHEREAS, on December 16, 2003, the City Council and the Agency conducted a joint public hearing on the Fourth Plan Amendment, which was duly noticed in accordance with the requirements of the Redevelopment Law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. In accordance with California Health and Safety Code Sections 33367 and 33457.1, and based upon the evidence contained in the Report on the Fourth Amendment and other documents prepared in the plan amendment process, and on evidence presented at the public hearing, the City Council finds and determines that:

(a) The proposed Fourth Plan Amendment is a component of and is consistent with the project analyzed in the Program EIR; therefore, no additional review is required; the Plan Amendment is subject to the Mitigation Monitoring Program adopted by the Council for the Program EIR. (see particularly Chapter II of the Report on the Fourth Amendment regarding evidence of this finding.)

(b) The Project Area is a blighted area, the redevelopment of which is necessary to effectuate the public purpose of the Redevelopment Law. (see particularly Chapters I, II and III of the Report on the Fourth Amendment

regarding evidence of this finding.)

(c) The Fourth Plan Amendment would redevelop the Project Area in conformity with the Redevelopment Law and would be in the interest of the public peace, health, safety, and welfare; and the implementation of the Fourth Plan Amendment would promote the public peace, health, safety and welfare of the City of Sunnyvale, and would effectuate the purposes and policy of the Redevelopment Law. (see particularly Chapter IV of the Report on the Fourth Amendment regarding evidence of this finding.)

(d) The adoption and implementation of the Fourth Plan Amendment are economically sound and feasible. (see particularly Chapters I.C. and VIII of the Report on the Fourth Amendment regarding evidence of this finding.)

(e) The Fourth Plan Amendment is consistent with the General Plan of the City, including but not limited to the Housing Element of the General Plan. (see particularly Chapters I, III and IV of the Report on the Fourth Amendment regarding evidence of this finding.)

(f) The condemnation of nonresidential property, if any, is necessary to the execution of the Redevelopment Plan as amended by the Fourth Plan Amendment and adequate provisions have been made for payment of property to be acquired as provided by law. (see particularly Chapter VI of the Report on the Fourth Amendment regarding evidence of this finding.)

(g) The Agency has a feasible method or plan for the relocation of any persons which may be displaced from the Project Area if the Redevelopment Plan as amended by the Fourth Plan Amendment may result in the temporary or permanent displacement of any occupants of non-residential properties. (see particularly Chapters I and III of the Report on the Fourth Amendment regarding evidence of this finding.)

(h) The matters set forth in Health and Safety Code Section 33367(d)(7) and (d)(8) are not applicable to or affected by the Fourth Plan Amendment because the Fourth Plan Amendment does not permit eminent domain of residential properties. Additionally, the matters set forth in Health and Safety Code Section 33367(d)(9), (d)(10), (d)(11), (d)(12) and (d)(13) are not affected by the Fourth Plan Amendment and, consequently, no further findings with respect to such matters are required.

(f) It is hereby found and determined that in considering adoption of the Fourth Plan Amendment, the City Council previously considered all comments received during its public hearing held on December 16, 2003.

SECTION 2. CONTINUING PURPOSE AND INTENT. It is the continuing purpose and intent of the City Council that the Redevelopment Plan, as amended by the Fourth Plan Amendment, be implemented in order to continue to:

- (a) Eliminate the conditions of blight remaining in the Project Area;
- (b) Ensure, as far as possible, that the causes of the blighting conditions will be either eliminated or protected again;
- (c) Encourage and ensure the redevelopment of the Project Area;
- (d) Encourage and foster the economic revitalization of the Project Area, as necessary; and
- (e) Provide and improve affordable housing.

SECTION 3. OVERRULING OF OBJECTIONS. All written and oral objections to the Fourth Plan Amendment are hereby overruled.

SECTION 4. AMENDMENT ADOPTED. It is hereby found and determined that the Fourth Plan Amendment is necessary and desirable. The Redevelopment Plan, all amendments and restatements of the Redevelopment Plan, and all ordinances adopting or previously amending the Redevelopment Plan are hereby amended in accordance with the Fourth Plan Amendment.

The Fourth Amendment, entitled "Fourth Amendment to the Central Core Redevelopment Plan" is hereby adopted, approved and designated as the official Redevelopment Plan for the Project Area. The Fourth Amendment is to read as set forth in "Exhibit A" attached and incorporated. It is the purpose and intent of this City Council that the Fourth Plan Amendment be implemented in the Project Area. The Redevelopment Agency is vested with the continuing responsibility to implement the Redevelopment Plan, as amended by this Fourth Plan Amendment.

SECTION 5. FILING. The City Clerk of the City of Sunnyvale is hereby directed to file a copy of the Fourth Plan Amendment (Fourth Amendment to the Central Core Redevelopment Plan) with the minutes of this meeting.

SECTION 6. RECORDATION. The Executive Director of the Agency is hereby directed to record the Fourth Plan Amendment in compliance with the provisions of Health and Safety Code Section 33456 and Government Code Section 27295.

SECTION 7. SEVERABILITY. If any provision, section, subsection, subdivision, sentence, clause or phrase of this Ordinance or of the Fourth Plan Amendment is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of the Ordinance or the Fourth Plan Amendment.

SECTION 8. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 9. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the

City of Sunnyvale and to cause publication once in an adjudicated newspaper of general circulation in the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on December 16, 2003, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on January \_\_\_\_\_, 2004, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor



## FOURTH AMENDMENT TO THE CENTRAL CORE REDEVELOPMENT PLAN

### I. INTRODUCTION

The City Council of the City of Sunnyvale has adopted the Central Core Redevelopment Plan by Ordinance No. 1796-75, dated November 26, 1975, as amended by Ordinance No. 2200-87, adopted on January 6, 1987, as amended by Ordinance No. 2448-93, dated on October 5, 1993, and as further amended by Ordinance No. 2493-94, adopted on December 20, 1994 (the "Redevelopment Plan") establishing the Central Core Redevelopment Project Area (the "Project Area"). The Project Area is shown in the attached Attachment 1. The Redevelopment Plan, as previously amended, currently contains a time limit of December 30, 1998 for commencement by the Redevelopment Agency of the City of Sunnyvale (the "Agency") of eminent domain proceedings with respect to property within the Project Area. This time limit may be extended only by amendment of the Redevelopment Plan. This amendment (the "Amendment") has been prepared by Agency staff to extend the Agency's power of eminent domain in the Project Area for an additional twelve (12) years and to conform land uses with the General Plan and Downtown Specific Plan.

### II. AMENDMENT TO PLAN

A. The Plan is hereby to provide as follows:

"If the Agency intends to use eminent domain, the Agency must commence eminent domain proceedings with respect to any property not in residential use which it desires to acquire no later than \_\_\_\_\_ 2016, *(the date twelve (12) years after the date of adoption of the ordinance adopting the Amendment [date to be inserted when known])*. Eminent domain power under the Plan shall not be exercised over property used residentially (e.g. property which contains a structure or structures occupied at the time of proposed acquisition with one or more residential dwelling units). This time limit for commencement of eminent domain proceedings may be extended only by amendment of the Redevelopment Plan."

B. Any references to land uses and circulation in the Plan, as previously amended, are hereby amended (which currently incorporates the General Plan land uses that existed prior to the 2003 amendment to the General Plan), are hereby amended to read as follows:

#### "PERMITTED LAND USES

A. Overview of Regulations

The City has adopted a General Plan which is in full conformance with the State requirements for general plans.

The permitted land uses, land use standards, development goals, objectives and policies, and other evaluation guidelines of this Redevelopment Plan shall be those set forth in the General Plan and the Downtown Specific Plan, as they now exist or are hereafter amended. It is further intended that all provisions of the Zoning Code, as it now exists or hereafter be amended, shall be applicable to developments in the Project Area, and that all development in the Project Area shall comply with all applicable state and local laws, codes and ordinances in effect from time to time in the City, in addition to any requirements of the Agency imposed pursuant to this Amendment.

Finally, the applicable City zoning and planning processes (including any moratoria or temporary development restrictions imposed by the City) shall continue to have full effect and shall continue to serve as the primary determinant for land use decisions in the Project Area. Without limiting the generality of the foregoing, and subject to the following paragraph, the Planning Commission, the City Council, City departments, and other City boards and commissions shall perform the same functions for consideration and approval or disapproval of development applications, permits and other entitlements granted on or after January 1, 2004, for properties within the Project Area that are subject to the Redevelopment Plan, as for properties outside the Project Area that are not subject to the Redevelopment Plan.

The City Council may, in its discretion through appropriate future legislation, amend applicable City planning or building codes and standards to provide for modified or streamlined processing of development applications within redevelopment project areas or other special zones. Any such amendment of City planning and building codes and standards shall thereafter apply to the processing of development applications in the Project Area in accordance with the terms of such amendment.

B. Permitted Land Uses

As noted in the overview to this Amendment, the Redevelopment Plan adopts the land uses set forth in the General Plan and the Downtown Specific Plan as the permitted uses within the Project Area. It is intended that the land uses set forth in the General Plan and the Downtown Specific Plan now or as it may hereafter be amended shall be the land uses governing the Redevelopment Plan.

C. Streets and Rights-of-Way

All streets within the Project Area may be widened, altered, or vacated for purposes of development of the Project. New streets may be created as necessary. The anticipated configuration of streets within the Project Area is shown in the General Plan and Downtown Specific Plan. These public rights-of-way shall be used for vehicular and/or pedestrian traffic as well as for public improvements, public and private utilities, and activities typically found in the public rights-of-way. Any and all street vacations pursuant to the Redevelopment Plan shall be in accordance with the City's public hearing requirements as well



as all other applicable law including, but not limited to, those provisions set forth in the California Streets and Highways Code.

Additional streets, alleys and easements may be created in the Project Area as appropriate for proper development. Existing streets, alleys and easements may be abandoned, closed or modified as necessary for proper development of the Project. Any changes in the existing street layout shall be in accordance with the General Plan, the Downtown Specific Plan, the objectives of the Redevelopment Plan, and the City's design standards, and shall be effectuated in the manner prescribed by state and local law.

D. General Controls and Limitations

All real property in the Project Area is hereby subject to the goals, objectives, policies, controls and requirements of the Redevelopment Plan (which expressly incorporates the goals, objectives, policies, controls and requirements of the General Plan, the Downtown Specific Plan and the Zoning Code). No real property shall be developed, rehabilitated, or otherwise changed except in conformance with the provisions of the Redevelopment Plan, the General Plan, the Downtown Specific Plan, the Zoning Code, and all other applicable State and local laws and standards in effect from time to time.

1. New Construction

All new construction shall comply with all applicable State and local laws and standards in effect from time to time. Parking facilities shall be provided in accordance with the criteria set forth in the General Plan, the Downtown Specific Plan and the Zoning Code, as they now exist or may hereafter be amended, and any additional standards adopted by the Agency pursuant to Section E below.

2. Rehabilitation

Any structure within the Project Area which will be retained as part of this Project shall not be altered, reconstructed, or rehabilitated unless it is done so in conformance with the General Plan, Downtown Specific Plan, Zoning Code, all applicable codes and any and all guidelines which may be adopted by the Agency to assist in the implementation of the Redevelopment Plan. This conformity shall extend to the architectural character, the public spaces and other elements as required by the City and/or Agency.

3. Open Spaces and Landscaping

The standards for open space to be provided within the Project Area will be set forth in the General Plan, Downtown Specific Plan and the Zoning Code, as they now exist and may hereafter be amended, and are included as part of the goals and objectives of the Redevelopment Plan. These areas include, but are not limited to, the total of all areas which will be in the public rights-of-way, open space areas, the space around buildings, and all other areas not allowed under applicable limits of land coverage to be covered by buildings. Landscaping plans may be required to be submitted to the Agency for review and approval.

#### 4. Non-Conforming Uses

The Agency is authorized to permit existing uses to remain and be repaired expanded and replaced, which uses do not otherwise conform to the provisions of the Redevelopment Plan, provided that such uses are determined by the City under its applicable laws and land use regulations to be acceptable, and with such conditions as the City may apply.

#### 5. Resubdivision of Parcels

After rehabilitation and development pursuant to the Redevelopment Plan, no parcel in the Project Area, including any parcel retained by a conforming owner or participant, shall be resubdivided without the approval of the Agency.

#### 6. Utilities

The Agency will work with all utility companies to encourage compliance with City requirements pertaining to the undergrounding of utility equipment, including, but not limited to, the following: transformer vaults or pads, water meters and valves, telephone pull boxes, manhole inlets, and drain facilities, and cable television.

#### 7. Signs

Exterior signs necessary for the identification of buildings and premises shall be as permitted by the General Plan, Downtown Specific Plan and the Zoning Code, as they now exist or may hereafter be amended, provided that they comply with any design criteria established for the Project Area, including such additional standards as may be adopted by the Agency pursuant to Section E below. The Agency may require review by Agency staff, as well as the Planning Commission, of the complete sign program for a development, prior to the erection or installation of signs in any part of the Project Area.

#### 8. Variances

In the event the City grants a variance from applicable City land use regulations for development of a parcel within the Project Area, such grant of variance shall be deemed to constitute a comparable variance from the land use standards of the Redevelopment Plan without additional action by the Agency.

In addition, the Agency is authorized to permit variances from any development standards adopted by the Agency pursuant to Section E. In order to permit such a variance the Agency must determine that:

a. The application of one or more of the provisions of the Redevelopment Plan would result in unnecessary hardship to the property owner; and

b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls; and

c. Permitting a variance from the limits, restrictions, or controls of the Redevelopment Plan will not be materially detrimental to the public welfare or injurious to property or improvements in the area; and

d. Permitting a variance from the limits, restrictions or controls of such Agency development standards, regulations or policy guidelines will not be contrary to the objectives of the Redevelopment Plan; and

e. The grant of variance by the Agency will not result in development that conflicts with applicable City land use standards.

No such variance shall be granted which changes a basic land use pursuant to the Redevelopment Plan or which permits other than a minor departure from the provisions of the Redevelopment Plan. In permitting any variance, the Agency shall impose such conditions as are necessary to protect the public health, safety, and welfare and to assure compliance with the objectives of this Redevelopment Plan.

E. Additional Standards for Development

Within the limits, restrictions, and controls established in the General Plan, Downtown Specific Plan, Zoning Code and the Redevelopment Plan, the Agency, is authorized to establish specific guidelines or standards for building heights, building coverage, design criteria, architectural character, landscaping character, sign character, traffic circulation ingress and egress, parking, and any other development and design control necessary to implement the Redevelopment Plan in conjunction with any project with which the Agency is involved. The Agency shall not approve plans which do not comply with any adopted guidelines and/or standards for redevelopment.

1. Height and Bulk

On any building site, the height and bulk of structures shall be regulated as provided in the City's General Plan, Downtown Specific Plan and Zoning Code, as they now exist or as they may hereafter be amended, and such additional standards as may be adopted by the Agency pursuant to Section E above.

2. Density

The maximum permitted density of development (including dwelling unit density) on any building site shall be regulated as provided in the General Plan, Downtown Specific Plan and Zoning Code, as they may hereafter be amended, and such additional standards as may be adopted by the Agency pursuant to Section E above.

F. Dwelling Units

The maximum number of dwelling units in the Project Area shall be regulated as provided in the General Plan, Downtown Specific Plan and Zoning Code, as they now exist or may hereafter be amended.

G. Building Permit1. Review of Applications

No permit shall be issued for the construction of any new building or the addition to an existing building or any permit for rehabilitation in the Project Area until the application for such permit has been processed in the manner herein provided. Any permit that is issued hereunder must be for construction or maintenance which conforms to the provisions of the Redevelopment Plan.

The procedure for filing an application for a building permit shall be the same procedure currently used by the City in processing building permit applications. Upon receipt of an application by the Building Division, the Building Division shall submit to the Executive Director (or the authorized designee(s) of the Executive Director) of the Agency said application for review to determine if the proposed improvements conform to the Redevelopment Plan. With fifteen (15) days thereafter, the Executive Director or his or her designee(s) shall submit a report to the Building Division on said application. Said report shall:

- a) Deny the application.
- b) Approve the application.
- c) Approve the application with modifications or conditions deemed to be necessary by the Executive Director.

After receipt of the report or after fifteen (15) days from submittal of the application to the Executive Director or his or her designee(s), whichever occurs first, the Building Division shall issue the permit with conditions, if any, as set forth in the Executive Director's report, or shall deny the issuance of the permit pursuant to the Executive Director's report.

2. Appeal

The applicant or the Agency may appeal the Executive Director's decision to withhold, to conditionally allow or to allow the issuance of such a permit pursuant to established City procedures. The appeal will be made to the Agency Board of Directors within thirty (30) days from the date of the Executive Director's Report."

III. EFFECT OF AMENDMENT

All provisions of the Redevelopment Plan not inconsistent with this Amendment shall continue in full force and effect.

**City of Sunnyvale  
Redevelopment Area  
Project Area Map**

0 305 610 1,220 Feet